

ESTTA Tracking number: **ESTTA663958**

Filing date: **03/31/2015**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	92052897
Party	Defendant Galderma Laboratories, Inc.
Correspondence Address	JEFFREY M BECKER HAYNES AND BOONE LLP 2323 VICTORY AVENUE, SUITE 700 DALLAS, TX 75219 UNITED STATES jeff.becker@haynesboone.com, Lisa.Congleton@haynesboone.com
Submission	Reply in Support of Motion
Filer's Name	Jeffrey M. Becker
Filer's e-mail	jeff.becker@haynesboone.com
Signature	/Jeffrey M. Becker/
Date	03/31/2015
Attachments	RESTORADERM Reply in Support of Motion to Resume.pdf(196514 bytes )

**Thomas Sköld**  
Petitioner,

**Galderma Laboratories, Inc.**  
Registrant.

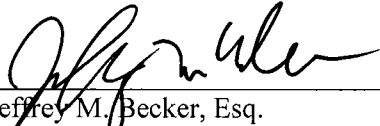
Reg. Nos.: 2,985,751 and 3,394,514

Moreover, the Supreme Court has now recognized that the Board's ruling in this case may result in issue preclusion in the civil action Petitioner filed. *B&B Hardware, Inc. v. Hargis industries, Inc. DBA Sealtite Building Fasteners et al.*, 757 U.S. \_\_\_\_ (2015) (slip op.). The Board's exercise of its discretionary power to suspend an action pending the outcome of an action in federal court had been based on the -- now inapplicable -- reasoning that "the decision of the federal district court is often binding upon the Board, while the decision of the Board is not binding upon the court." TMBP § 510.02(a); *see also New Orleans Louisiana Saints LLC v. Who Dat? Inc.*, 90 U.S.P.Q.2d 1550, 1552 (TTAB 2011) (noting that while a district court decision may be binding on the Board, the Board's determination of a party's right to maintain a registration is not binding or res judicata in federal court). Now that the importance and binding impact of Board decisions have been recognized by the Supreme Court, the Board should resume the current proceeding to provide the district court presiding over Petitioner's civil action with the benefit of the Board's judgment.

The only steps remaining in this proceeding are the Petitioner-requested oral hearing and a decision from the Board, something that both parties have been working toward for nearly five years. As in *B&B Hardware*, the parties here have fully litigated this matter before the Board, and taken extensive discovery complete with multiple depositions. See *B&B Hardware v. Hargis*, 575 U.S. \_\_\_, \_\_\_ (2015) (slip op., at 6-7). The Board should resume this proceeding and render its decision, which may be binding upon the district court, especially as trial has already concluded before the Board and the civil action is in its infancy.

For the foregoing reasons, Registrant requests that the Board grant its Motion to Resume Proceedings.

Respectfully submitted,



Jeffrey M. Becker, Esq.  
Richard D. Rochford, Esq.  
*Attorneys for Registrant*  
HAYNES AND BOONE, LLP  
2323 Victory Avenue, Suite 700  
Dallas, Texas 75219  
Telephone: 214-651-5066  
Facsimile: 214-200-0853  
*jeff.becker@haynesboone.com*  
File: 32994.24  
15096443\_2

